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MAY 28 2002  
[Signature]

PATENT

ATTORNEY DOCKET NO.: DIVER1270-5

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Jay M. Short Art Unit: 1635  
Application No.: 10/034,622 Examiner: Unassigned  
Filed: December 21, 2001  
Title: CONSTRUCTION AND USE OF CATALOGUED NUCLEIC ACID  
LIBRARIES THAT CONTAIN ADVANTAGEOUSLY ADJUSTED  
REPRESENTATIONS OF DEFINED COMPONENTS

**BOX MISSING PARTS**

Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE TO NOTICE TO FILE MISSING PARTS**

Sir:

In response to the Notice to File Missing Parts of Application mailed March 26, 2002,  
enclosed are:

1. A copy of the Notice to File Missing Parts of Application (2 pages);
2. Petition Under 37 C.F.R. §1.182 (2 pages);
3. Executed Declaration (3 pages);
4. Request for Correction of Filing Receipt (4 pages);
5. Check number 509467 in the amount of \$565.00, which includes \$435.00  
as filing and surcharge fee and \$130.00 Petition fee;
6. Change of Attorney Address (1 page); and
7. Return Receipt Postcard.

**CERTIFICATION UNDER 37 CFR §1.8**

I hereby certify that the documents referred to as enclosed herein are  
being deposited with the United States Postal Service as first class  
mail on May 28, 2002, in an envelope addressed to: Box Missing  
Parts, Commissioner for Patents, Washington, D.C. 20231

Karen LePari  
Karen LePari

✓

In re Application of:  
Jay M. Short  
Application No.: 10/034,622  
Filed: December 21, 2001  
Page 2

PATENT  
Atty Docket No.: DIVER1270-5

Applicants claim small entity status in the above-identified application. Pursuant to 37 C.F.R. § 1.27, a verified statement claiming small entity status is not required.

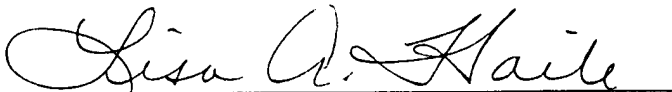
The filing fee has been calculated as follows.

	Number Filed		Number Extra		Rate			Fee	
					Large Entity	Small Entity		Small Entity	Large Entity
Total Claims	4 - 20	=	0	X	\$	\$09	=	\$ 0.00	\$ 0.00
Independent Claims	1 - 3	=	0	X	\$	\$42	=	\$ 0.00	\$ 0.00
Multiple Dependent Claims Presented: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					\$	\$140		\$0.00	
					BASIC FEE			\$370.00	\$ 0.00
					TOTAL FEE			\$370.00	\$ 0.00

XX Enclosed is a check in the amount of \$565.00 which includes \$370.00 as filing fee, \$65.00 as payment for the surcharge fee for missing parts of the application and \$130.00 as payment for the Petition fee. The Commissioner is hereby authorized to charge any other fees that may be associated with this communication, or credit any overpayment to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: May 28, 2002

  
Lisa A. Haile, J.D., Ph.D.  
Registration No.: 38,347  
Telephone: (858) 677-1456  
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP  
4365 Executive Drive, Suite 1100  
San Diego, California 92121-2133  
USPTO Customer Number 28213

APR 01 2002


 GRAYCARY/T.ELLIS  
 UNITED STATES PATENT AND TRADEMARK OFFICE

 COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
 www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/034,622	12/21/2001	Jay Short	

 28213  
 GARY CARY WARE & FRIENDENRICH LLP  
 4365 EXECUTIVE DRIVE  
 SUITE 1600  
 SAN DIEGO, CA 92121-2189


CONFIRMATION NO. 9846

## FORMALITIES LETTER



\*OC000000007714590\*

Date Mailed: 03/26/2002

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

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Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 370 to complete the basic filing fee for a small entity.*
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 435.**

06/11/2002 BNGUYEN1 00000035 10034622

 01 FC:201  
 02 FC:205

 370.00 0P  
 65.00 0P

The following item(s) appear to have been **omitted** from the application:

- Page(s) 1, 70-76 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the

date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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*A copy of this notice **MUST** be returned with the reply.*



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Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



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ORIGINALLY FILED

#5

PATENT  
ATTORNEY DOCKET NO.: DIVER1270-5

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Jay M. Short      Art Unit: 1635  
Application No.: 10/034,622      Examiner: Unassigned  
Filed: December 21, 2001  
Title: CONSTRUCTION AND USE OF CATALOGUED NUCLEIC ACID  
LIBRARIES THAT CONTAIN ADVANTAGEOUSLY ADJUSTED  
REPRESENTATIONS OF DEFINED COMPONENTS

**BOX MISSING PARTS**

Commissioner for Patents  
Washington, D.C. 20231

**REQUEST FOR CORRECTION OF FILING RECEIPT**

Sir:

This Communication is submitted to request correction of the filing receipt in reference to the above-identified application. The data requiring correction is indicated in yellow highlight on the attached copy of the filing receipt and herein in **BOLD**.

Please change in the **DOMESTIC PRIORITY DATA AS CLAIMED BY APPLICATION** section, first line, as follows:

**THIS APPLICATION IS A DIV OF 09/089,789 06/03/1998**

Please add to the **ATTY. DOCKET NO.** section as follows:

**DIVER1270-5**

Applicants accordingly request the correction be made of record and a corrected filing receipt be issued.

**CERTIFICATION UNDER 37 CFR §1.8**

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on May 28, 2002, in an envelope addressed to: Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231

*Karen LePari*

Karen LePari

In re Application of:  
Jay M. Short  
Application No.: 10/034,622  
Filed: December 21, 2001  
Page 2

PATENT  
Atty Docket No.: DIVER1270-5

No fee is deemed necessary in connection with the filing of this paper. However, if any fee is required, the Commissioner is hereby authorized to charge the amount of this fee, or credit any overpayments, to Deposit Account No. 50-1355.

Respectfully submitted,

Date: May 28, 2002



Lisa A. Haile, J.D., Ph.D.  
Registration No.: 38,347  
Telephone: (858) 677-1456  
Facsimile: (858) 677-1465

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO.	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/034,622	12/21/2001	1635	0.00	PAK 5 12-20-01	2	4	1

28213  
GARY CARY WARE & FRIENDENRICH LLP  
4365 EXECUTIVE DRIVE  
SUITE 1600  
SAN DIEGO, CA 92121-2189



CONFIRMATION NO. 9846

## FILING RECEIPT



\*OC00000007714589\*

Date Mailed: 03/26/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

## Applicant(s)

Jay Short, Rancho Santa Fe, CA;

## Assignment For Published Patent Application

Diversa Corporation, San Diego, CA;

Domestic Priority data as claimed by applicant 09/089,789

THIS APPLICATION IS A DIV OF 09/089,787 06/03/1998  
WHICH IS A CIP OF 09/034,724 03/04/1998 PAT 6,001,574  
WHICH IS A CIP OF 08/665,565 06/18/1996 PAT 5,763,239

## Foreign Applications

If Required, Foreign Filing License Granted 03/25/2002

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

Title

Construction and use of catalogued nucleic acid libraries that contain advantageously adjusted representations of defined components

**Preliminary Class**

435

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).